

By: Ellis, Hinojosa

S.B. No. 222

A BILL TO BE ENTITLED

AN ACT

relating to a security freeze on a consumer file maintained by a consumer reporting agency.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

SECTION 1. Subsection (a), Section 20.034, Business & Commerce Code, is amended to read as follows:

(a) On written request sent by certified mail that includes proper identification provided by a consumer [~~and a copy of a valid police report, investigative report, or complaint made under Section 32.51, Penal Code~~], a consumer reporting agency shall place a security freeze on a consumer's consumer file not later than the fifth business day after the date the agency receives the request.

SECTION 2. Section 20.0385, Business & Commerce Code, is amended to read as follows:

Sec. 20.0385. APPLICABILITY OF SECURITY ALERT AND SECURITY FREEZE. (a) The requirement under this chapter to place a security alert or security freeze on a consumer file does not apply to:

(1) a check service or fraud prevention service company that issues consumer reports:

(A) to prevent or investigate fraud; or

(B) for purposes of approving or processing negotiable instruments, electronic funds transfers, or similar methods of payment; or

1 (2) a deposit account information service company that
2 issues consumer reports related to account closures caused by
3 fraud, substantial overdrafts, automated teller machine abuses, or
4 similar negative information regarding a consumer to an inquiring
5 financial institution for use by the financial institution only in
6 reviewing a consumer request for a deposit account with that
7 institution.

8 (b) The requirement under this chapter to place a security
9 freeze on a consumer file does not apply to a consumer reporting
10 agency that:

11 (1) acts only to resell credit information by
12 assembling and merging information contained in a database of
13 another consumer reporting agency or multiple consumer reporting
14 agencies; and

15 (2) does not maintain a permanent database of credit
16 information from which new consumer reports are produced.

17 SECTION 3. Section 20.04, Business & Commerce Code, is
18 amended to read as follows:

19 Sec. 20.04. CHARGES FOR CERTAIN DISCLOSURES OR
20 SERVICES. (a) Except as provided by Subsection (b), a consumer
21 reporting agency may impose a reasonable charge on a consumer for
22 the disclosure of information pertaining to the consumer or for
23 placing a security freeze on a consumer file, temporarily lifting a
24 security freeze for a designated period or for an identified
25 requester, or removing a security freeze in accordance with this
26 chapter. The amount of the charge for the disclosure of information
27 pertaining to the consumer may not exceed \$8. The amount of the

1 charge for placing a security freeze on a consumer file,
2 temporarily lifting a security freeze for a designated period, or
3 removing a security freeze may not exceed \$10 per request. The
4 amount of the charge for temporarily lifting a security freeze for
5 an identified requester may not exceed \$12 per request. On January
6 1 of each year, a consumer reporting agency may increase the charge
7 for disclosure to a consumer or for placing, temporarily lifting,
8 or removing a security freeze. The increase, if any, must be based
9 proportionally on changes to the Consumer Price Index for All Urban
10 Consumers as determined by the United States Department of Labor
11 with fractional changes rounded to the nearest 50 cents.

12 (b) A consumer reporting agency may not charge a fee for:

13 (1) a request by a consumer for a copy of the
14 consumer's file:

15 (A) made not later than the 60th day after the
16 date on which adverse action is taken against the consumer; or

17 (B) made on the expiration of a 45-day security
18 alert;

19 (2) notification of the deletion of information that
20 is found to be inaccurate or can no longer be verified sent to a
21 person designated by the consumer, as prescribed by Section 611 of
22 the Fair Credit Reporting Act (15 U.S.C. Section 1681i), as
23 amended;

24 (3) a set of instructions for understanding the
25 information presented on the consumer report;

26 (4) a toll-free telephone number that consumers may
27 call to obtain additional assistance concerning the consumer report

1 or to request a security alert; ~~or~~

2 (5) a request for a security alert made by a consumer;
3 or

4 (6) the placement, temporary lifting, or removal of a
5 security freeze at the request of a consumer who has submitted to
6 the consumer reporting agency a copy of a valid police report,
7 investigative report, or complaint involving the alleged
8 commission of an offense under Section 32.51, Penal Code.

9 SECTION 4. Subsection (e), Section 20.037, Business &
10 Commerce Code, is repealed.

11 SECTION 5. The change in law made by this Act applies only
12 to a request for placement, removal, or temporary lifting of a
13 security freeze on a consumer file that is made on or after the
14 effective date of this Act. A request for placement, removal, or
15 temporary lifting of a security freeze on a consumer file that is
16 made before the effective date of this Act is governed by the law in
17 effect on the date the request was made, and the former law is
18 continued in effect for that purpose.

19 SECTION 6. This Act takes effect immediately if it receives
20 a vote of two-thirds of all the members elected to each house, as
21 provided by Section 39, Article III, Texas Constitution. If this
22 Act does not receive the vote necessary for immediate effect, this
23 Act takes effect September 1, 2007.